

Response

The claims were amended in accordance with the amendments above. The amendments are being made to clarify the invention and to focus the claims on those aspects of the invention which are a commercial priority to the assignee. The amendments are fully supported by the specification, claims, and figures as originally filed. No new matter is believed or intended to be involved.

Applicant appreciates the courtesies extended during the telephonic interview with Examiners Truong and Alam on July 27, 2004. While no agreement was reached, significant headway was achieved to show that the pending claims are allowable over the art of record. The Examiners indicated that they would reevaluate the claims in view of Mindrum (USP 6340978).

The pending Office Action rejected claims 21-26 and 29-35 under 35 U.S.C. § 103(a) as being obvious over Bunney (USP 6003032) in view of Hobbs (USP 6264032). The pending Office Action rejected claim 28 under 35 U.S.C. § 103(a) as being obvious over Bunney in view of Hobbs and further in view of Manross (USP 6414663). The pending Office Action rejected claims 36-42 under 35 U.S.C. § 103(a) as being obvious over Bunney in view of Leif Technologies, Inc., VIEW-LOGY 1997 ("Leif"). Applicant traverses these rejections because a *prima facie* case of obviousness has not, and cannot be, established. To establish a *prima facie* case of obviousness, as specified in MPEP § 2143, three basic criteria must be met. First, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. Second, there must be some suggestion or motivation to modify the reference or to combine reference teachings. Finally, there must be a reasonable expectation of success.

In the Amendment and Response that was filed February 27, 2004, applicant clarified that the memorial must be "concrete," noting that this term means that the memorial occupies physical space and has mass. (Amendment and Response dated 02/27/2004, p. 6). Nevertheless, the subsequent Office Action, which is currently pending, argues with reference to Bunney that "In this case, my Forums can be the

concrete memorial.” (Office Action dated 03/25/2004, p. 3). As discussed in the telephonic interview on July 27, 2004, the “my Forums” taught by Bunney is a feature of a web site. As such, it does not occupy physical space and/or does not have mass. Therefore, “my Forums” is not the “concrete memorial” recited in the pending claims. Accordingly, Bunney does not teach a “concrete memorial,” and a rejection on such grounds was improper.

Notwithstanding the erroneous assertion on page 3 of the pending Office Action that Bunney teaches a concrete memorial, the Office Action acknowledges the shortcomings of Bunney by stating that “Bunney does not explicitly teach the claimed limitation ‘a concrete memorial for a deceased person, the concrete memorial comprising discernable information including the name of the deceased person’. Hobbs teaches a headstone for Joe who is a deceased person.” (Office Action dated 03/25/2004, p. 4). Applicant concedes that the headstone taught by Hobbs is a proper, non-limiting example of a concrete memorial – it occupies physical space and has mass. However, a person of ordinary skill in any art would immediately recognize the fallacy in the suggestion that a feature of a web site (i.e. “my Forums” from Bunney) and a headstone could both be a “concrete memorial.” This inconsistency in the pending Office Action further demonstrates its shortcomings.

It should also be noted that Bunney is completely devoid of any teaching or suggestion of information relating to a deceased person. Nevertheless, the pending Office Action suggests the contrary by stating that a “user can provide various personal details about a deceased person or this user can be a deceased person after she or he registers.” (Office Action dated 03/25/2004, p. 3). Applicant submits that the Office Action improperly found teachings in Bunney that were not actually there. Indeed, to the extent that Bunney teaches information related to a particular person, Bunney teaches information relating to the person who is registering with the web service. (Col. 6, ll. 32-46). Applicant submits that a deceased person would be physically incapable of registering with a web service. Furthermore, Bunney fails to specifically teach a user entering information relating to a deceased person; nor does Bunney teach information

about a user remaining on web pages after the user has died. In short, Bunney does not teach or suggest information relating to a deceased person as recited in the pending claims. Therefore, the rejection was improper.

In addition, and as discussed in the telephonic interview on July 27, 2004, none of the references teach the recited limitation of “an identifier on or near the concrete memorial for the deceased person, the identifier indicating to people visiting the concrete memorial that information related to the deceased person may be found on the on-line registry service.” As discussed above, Bunney contains no teaching or suggestion of a concrete memorial whatsoever, let alone an identifier on or near such a concrete memorial. Furthermore, to the extent that Hobbs, Manross and Leif disclose a concrete memorial, none of these references teach or suggest an identifier on or near the concrete memorial indicating that information relating to a deceased person may be found on an on-line registry service. Indeed, neither Hobbs, Manross, nor Leif even remotely teach or suggest the on-line registry service recited in the pending claims. Accordingly, the rejection was improper.

With respect to claim 25, it should be noted that the “seal” recited in the claim was intended to be read within the plain meaning of that term as an emblem, hallmark, or similar identifier. Applicant did not intend for “seal” to be read as something that prevents passage, such as a seal to prevent leakage or entry. Nevertheless, the Office Action states that Bunney teaches “the identifier is a seal” by teaching a password-protected web page, such that “a URL is a seal until a user can login by a correct password.” (Office Action dated 03/25/2004, p. 5). For at least the reason that the rejection ascribes the wrong definition to the claim term, the rejection was improper.

Furthermore, notwithstanding the failure of the cited references to teach or suggest all of the claim limitations, a *prima facie* case of obviousness has not, and cannot be established because there is no suggestion or motivation to combine the references. As discussed above, the requisite suggestion or motivation to combine is utterly absent. This conclusion is further reinforced because Bunney is non-analogous

art with respect to Hobbs, Manross, and Leif Technologies. Those of ordinary skill in either art would recognize that the teachings of Bunney are in the art of web page oriented services, whereas Hobbs, Manross, and Leif are in the art of memorials and/or tangible death care products. Because the cited references represent such non-analogous art, it would not have been obvious to one of ordinary skill in the art to combine their teachings. Accordingly, even if the cited references in combination taught or suggested all of the limitations of the present claims, an obviousness rejection would be improper.

While Applicant has noted some of the significant differences between the pending claims and the cited references, it should be noted that other claimed features are not taught or suggested in the cited references. Furthermore, the dependent claims add other limitations that further distinguish over the cited references. Applicant reserves all rights and arguments with respect to those claimed features not expressly discussed above.

Based on the foregoing, all pending claims are in a condition for allowance. Accordingly, Applicant submits that all pending claims overcome the rejections presented in the Office Action, and respectfully requests reconsideration and an early notice of allowance.

Respectfully Submitted,



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